

AMENDED IN SENATE FEBRUARY 9, 2004
AMENDED IN SENATE JANUARY 22, 2004
AMENDED IN SENATE SEPTEMBER 8, 2003
AMENDED IN SENATE AUGUST 20, 2003
AMENDED IN SENATE AUGUST 18, 2003
AMENDED IN SENATE JULY 8, 2003
AMENDED IN SENATE JUNE 11, 2003
AMENDED IN SENATE MAY 28, 2003
AMENDED IN SENATE MAY 13, 2003
AMENDED IN ASSEMBLY MARCH 3, 2003

CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

ASSEMBLY BILL

No. 97

Introduced by Assembly Members Nation, Parra, and Wyland
(Principal coauthor: Senator Denham)
(Coauthors: Assembly Members Benoit, Berg, and Plescia)

January 8, 2003

An act to amend Section 56836.155 of, and to add and repeal Article 7 (commencing with Section 48300) of Chapter 2 of Part 27 of, the Education Code, relating to public schools, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

AB 97, as amended, Nation. Public schools.

(1) Existing law requires each person between the ages of 6 and 18 years, not otherwise exempt, to attend the public full-time day school in the district in which their parent or guardian is a resident.

This bill would authorize the governing board of any school district to admit pupils residing in another school district to attend any school in that district, as specified. The bill would ~~require~~ *authorize* each school district that elects to accept transfers to adopt a resolution to determine the number of transfers it will accept and to ensure that the pupils admitted under the policy are selected through a random, unbiased selection process.

The bill would authorize the district of residence or the district of choice to prohibit a transfer upon a determination that the transfer would negatively impact that district's court-ordered or voluntary desegregation plan or that district's racial and ethnic balance and would place additional conditions upon the administration of the transfers. The bill would authorize districts of residence to limit the number of pupils newly transferring out each year, as specified.

The bill would require that an application for transfer be submitted by January 1 of the school year preceding the school year for which the pupil is to be transferred, unless the deadline is waived.

The bill would ~~require~~ *authorize* a school district that has elected to accept transfer pupils to approve or reject each application for transfer between districts within 90 days after receiving the application. This bill would require that transfers be granted for the entire school year and be automatically renewed for each succeeding year, unless the school district of choice, through the adoption of a resolution, withdraws from participation in the program and no longer accepts any transfer pupils from other districts. The bill ~~would~~ *would* also specify that high school transfers would be automatically renewed even if a school district of choice withdraws from participation in the program. The bill would permit school districts of choice to revoke the transfer of any pupil who is recommended for expulsion.

The bill would credit the district, as to pupils admitted to a school district under this authority, with a corresponding increase in average daily attendance for state apportionment purposes and for purposes of certain computations under the Leroy F. Greene State School Building Lease-Purchase Law of 1976, including computations affecting allowable building area for school construction projects. The bill would



require that state aid for categorical education programs for the pupil be apportioned to the school district of choice. The bill would ~~require~~ *authorize* the admitting district, at the request of the pupil's parent or guardian, to provide pupil transportation within the district, to the extent the district otherwise provides transportation assistance to pupils.

The bill would ~~require~~ *authorize* each school district to annually report to the Superintendent of Public Instruction regarding pupil applications and transfers between districts pursuant to the above authority and would require the superintendent to summarize and report that information to the Legislature.

~~The bill would require each school district electing to accept transfer pupils to keep an accounting of the receipt and disposition of requests for alternative attendance and to annually report that information to the Superintendent of Public Instruction.~~

The bill would repeal those provisions on July 1, 2008.

(2) Existing law, in order to recognize the distribution of pupils with severe and costly disabilities among special education local plan areas, requires the State Department of Education, in conjunction with the Office of the Legislative Analyst, to calculate an incidence multiplier for each special education local plan area and requires the Department of Finance to approve the final incidence multiplier for each special education local plan area. Existing law requires the Superintendent of Public Instruction to calculate in the 1998–99 fiscal year and each fiscal year thereafter to and including the 2002–03 fiscal year, an adjusted entitlement for the incidence of disabilities for each special education local plan area using the incidence multiplier for each special education local plan area, as specified.

This bill would extend the requirement that the superintendent perform that calculation, as specified, through the 2003–04 fiscal year.

(3) This bill would declare that it is to take effect immediately as an urgency statute.

Vote: ²/₃. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Article 7 (commencing with Section 48300) is
2 added to Chapter 2 of Part 27 of the Education Code, to read:
3



Article 7. Pupil Attendance Alternatives

48300. For purposes of this article, the following definitions apply:

(a) “School district of choice” means a school district for which a resolution is in effect as described in subdivision (a) of Section 48301.

(b) “School district of residence” means the school district that a pupil would be directed by this chapter to attend, except as otherwise provided by this article.

48301. (a) The governing board of any school district may accept interdistrict transfers. A school district that receives an application for attendance under this article is not required to admit pupils to its schools. If, however, the governing board elects to accept transfers as authorized under this article, it may, by resolution, elect to accept transfer pupils, determine and adopt the number of transfers it is willing to accept under this article, and ensure that pupils admitted under the policy are selected through a random, unbiased process that prohibits an evaluation of whether or not the pupil should be enrolled based upon his or her academic or athletic performance. Any pupil accepted for transfer shall be deemed to have fulfilled the requirements of Section 48204.

(b) Either the pupil’s school district of residence, upon notification of the pupil’s acceptance to the school district of choice pursuant to subdivision (c) of Section 48308, or the school district of choice may prohibit the transfer of a pupil under this article or limit the number of pupils so transferred if the governing board of the district determines that the transfer would negatively impact any of the following:

(1) The court-ordered desegregation plan of the district.

(2) The voluntary desegregation plan of the district.

(3) The racial and ethnic balance of the district.

(c) The school district of residence may not adopt policies that in any way block or discourage pupils from applying for transfer to another district.

48302. School districts are encouraged to hold informational hearings on the current educational program the district is offering so that parents may provide input to the district on methods to improve the current program and so that parents may make informed decisions regarding their children’s education.

1 48303. (a) The school district of choice may not prohibit a
2 transfer of a pupil under this article based upon a determination by
3 the governing board of that school district that the additional cost
4 of educating the pupil would exceed the amount of additional state
5 aid received as a result of the transfer. However, a school district
6 may reject the transfer of a pupil if the transfer of that pupil would
7 require the district to create a new program to serve that pupil.

8 (b) This section is intended to ensure that special education,
9 bilingual, or other special needs pupils are not discriminated
10 against by the school district of choice because of the costs
11 associated with educating those pupils. Pupils with special needs
12 may take full advantage of the choice options available under this
13 section.

14 48304. An application of any pupil for transfer may not be
15 approved under this article if the transfer would require the
16 displacement, from a school or program conducted within any
17 attendance area of the school district of choice, of any other pupil
18 who resides within that attendance area or is currently enrolled in
19 that school.

20 48305. School districts of choice may employ existing
21 entrance criteria for specialized schools or programs if the criteria
22 are uniformly applied to all applicants.

23 48306. Each school district of choice shall give priority for
24 attendance to siblings of children already in attendance in that
25 district.

26 48307. (a) A school district of residence with an average
27 daily attendance greater than 50,000 may limit the number of
28 pupils transferring out each year to 1 percent of its current year
29 estimated average daily attendance.

30 (b) A school district of residence with an average daily
31 attendance of less than 50,000 may limit the number of pupils
32 transferring out to 3 percent of its current year estimated average
33 daily attendance and may limit the maximum number of pupils
34 transferring out for the duration of the program authorized by this
35 article to 10 percent of the average daily attendance for that period.

36 48308. (a) Any application for transfer under this article shall
37 be submitted by the pupil's parent or guardian to the school district
38 of choice that has elected to accept transfer pupils pursuant to
39 Section 48301 prior to January 1 of the school year preceding the
40 school year for which the pupil is to be transferred. This

1 application deadline may be waived upon agreement of the pupil's
2 school district of residence and the school district of choice.

3 (b) The application ~~shall~~ *may* be submitted on a form provided
4 for this purpose by the department and may request enrollment of
5 the pupil in a specific school or program of the district.

6 (c) Not later than 90 days after the receipt by a school district
7 of an application for transfer, the governing board of the district
8 ~~shall~~ *may* notify the parent or guardian in writing whether the
9 application has been provisionally accepted or rejected or of the
10 pupil's position on any waiting list. Final acceptance or rejection
11 shall be made by May 15 preceding the school year for which the
12 pupil is to be transferred. In the event of an acceptance, that notice
13 ~~shall~~ *may* be provided also to the school district of residence. If the
14 application is rejected, the district governing board ~~shall~~ *may* set
15 forth in the written notification to the parent or guardian the
16 specific reason or reasons for that determination, and ~~shall~~ *may*
17 ensure that the determination, and the specific reason or reasons
18 therefor, are accurately recorded in the minutes of ~~the~~ *a regularly*
19 *scheduled* board meeting in which the determination was made.

20 (d) Final acceptance of the transfer is applicable for one school
21 year and will be renewed automatically each year unless the school
22 district of choice through the adoption of a resolution withdraws
23 from participation in the program and no longer will accept any
24 transfer pupils from other districts. However, if a school district of
25 choice withdraws from participation in the program, high school
26 pupils admitted under this article may continue until they graduate
27 from high school.

28 48309. (a) Any school district of choice that admits any pupil
29 under this section ~~shall~~ *may* accept any completed coursework,
30 attendance, and other academic progress credited to that pupil by
31 the school district or districts previously attended by that pupil,
32 and ~~shall~~ *may* grant academic standing to that pupil based upon the
33 district's evaluation of ~~that academic progress~~ *the academic*
34 *progress credited to that pupil*.

35 (b) Any school district of choice that admits a pupil under this
36 section may revoke the pupil's transfer if the pupil is
37 recommended for expulsion pursuant to Section 48918.

38 48310. (a) The average daily attendance for pupils admitted
39 by a school district of choice pursuant to this article shall be
40 credited to that district pursuant to Section 46607. The attendance

1 report for the school district of choice may include an
2 identification of the school district of residence.

3 (b) Notwithstanding other provisions of law, state aid for
4 categorical education programs for pupils admitted under this
5 article shall be apportioned to the school district of choice.

6 (c) For any school district of choice that is a basic aid district,
7 the Superintendent of Public Instruction shall calculate for that
8 basic aid district an apportionment of state funds that provides 70
9 percent of the district revenue limit calculated pursuant to Section
10 42238 that would have been apportioned to the school district of
11 residence for any average daily attendance credited pursuant to
12 this section. For purposes of this subdivision, the term “basic aid
13 district” means a school district that does not receive from the
14 state, for any fiscal year in which the subdivision is applied, an
15 apportionment of state funds pursuant to subdivision (h) of Section
16 42238.

17 (d) The State Allocation Board shall develop procedures to
18 ensure that the average daily attendance of pupils admitted by a
19 school district of choice pursuant to this article shall be credited to
20 that school district for the purposes of any determination under
21 ~~Chapter 12 (commencing with Section 17000)~~ *Article 2*
22 *(commencing with Section 17010) of Chapter 12* of Part 10 that
23 utilizes an average daily attendance calculation.

24 48311. Upon request of the pupil’s parent or guardian, each
25 school district of choice that admits a pupil under this section to
26 any school or program of the district ~~shall~~ *may* provide to the pupil
27 transportation assistance within the boundaries of the district to
28 that school or program, to the extent that the district otherwise
29 provides transportation assistance to pupils.

30 48312. Each school district ~~shall~~ *may* make information
31 regarding its schools, programs, policies, and procedures available
32 to any interested person upon request.

33 48313. (a) Pursuant to this article, each school district
34 electing to accept transfer pupils ~~shall~~ *may* keep an accounting of
35 all requests made for alternative attendance and records of all
36 disposition of those requests that ~~shall~~ *may* include, but are not to
37 be limited to, all of the following:

38 (1) The number of requests granted, denied, or withdrawn. In
39 the case of denied requests, the records ~~shall~~ *may* indicate the
40 reasons for the denials.

1 (2) The number of pupils transferred out of the district.

2 (3) The number of pupils transferred into the district.

3 (b) The information maintained pursuant to subdivision (a)
4 ~~shall may~~ be reported to the governing board of the school district
5 ~~at an open meeting of the governing board. After a regularly~~
6 ~~scheduled meeting of the governing board. If~~ the information is
7 reported to the governing board of the school district, the
8 information shall be reported to the Superintendent of Public
9 Instruction annually, and the superintendent shall make the
10 information available to the Governor, the Legislature, and the
11 public.

12 48314. It is the intent of the Legislature that every parent in
13 this state be informed of their opportunity for currently existing
14 choice options under this article regardless of ethnicity, primary
15 language, or literacy.

16 48315. This article shall become inoperative on July 1, 2007,
17 and, as of January 1, 2008, is repealed, unless a later enacted
18 statute, which becomes effective on or before January 1, 2008,
19 deletes or extends the dates on which it becomes inoperative and
20 is repealed.

21 SEC. 2. Section 56836.155 of the Education Code is amended
22 to read:

23 56836.155. (a) On or before November 2, 1998, the
24 department, in conjunction with the Office of the Legislative
25 Analyst, shall do the following:

26 (1) Calculate an “incidence multiplier” for each special
27 education local plan area using the definition, methodology, and
28 data provided in the final report submitted by the American
29 Institutes for Research pursuant to Section 67 of Chapter 854 of the
30 Statutes of 1997.

31 (2) Submit the incidence multiplier for each special education
32 local plan area and supporting data to the Department of Finance.

33 (b) The Department of Finance shall review the incidence
34 multiplier for each special education local plan area and the
35 supporting data, and report any errors to the department and the
36 Office of the Legislative Analyst for correction.

37 (c) The Department of Finance shall approve the final
38 incidence multiplier for each special education local plan area by
39 November 23, 1998.

(d) For the 1998–99 fiscal year and each fiscal year thereafter to and including the 2003–04 fiscal year, the superintendent shall perform the following calculation to determine each special education local plan area’s adjusted entitlement for the incidence of disabilities:

(1) The incidence multiplier for the special education local plan area shall be multiplied by the statewide target amount per unit of average daily attendance for special education local plan areas determined pursuant to Section 56836.11 for the fiscal year in which the computation is made.

(2) The amount determined pursuant to paragraph (1) shall be added to the statewide target amount per unit of average daily attendance for special education local plan area determined pursuant to Section 56836.11 for the fiscal year in which the computation is made.

(3) Subtract the amount of funding for the special education local plan area determined pursuant to paragraph (1) of subdivision (a) or paragraph (1) of subdivision (b) of Section 56836.08, as appropriate for the fiscal year in which the computation is made, or the statewide target amount per unit of average daily attendance for special education local plan areas determined pursuant to Section 56836.11 for the fiscal year in which the computation is made, whichever is greater, from the amount determined pursuant to paragraph (2). For the purposes of this paragraph for the 2002–03 and 2003–04 fiscal years, the amount, if any, received pursuant to Section 56836.159 shall be excluded from the funding level per unit of average daily attendance for a special education local plan area. If the result is less than zero, the special education local plan area may not receive an adjusted entitlement for the incidence of disabilities.

(4) Multiply the amount determined in paragraph (3) by either the average daily attendance reported for the special education local plan area for the fiscal year in which the computation is made, as adjusted pursuant to subdivision (a) of Section 56836.15, or the average daily attendance reported for the special education local plan area for the prior fiscal year, as adjusted pursuant to subdivision (a) of Section 56826.15, whichever is less.

(5) If there are insufficient funds appropriated in the fiscal year for which the computation is made for the purposes of this section,



1 the amount received by each special education local plan area shall
2 be prorated.

3 (e) For the 1997–98 fiscal year, the superintendent shall
4 perform the calculation in paragraphs (1) to (3), inclusive, of
5 paragraph (d) only for the purposes of making the computation in
6 paragraph (1) of subdivision (d) of Section 56836.08, but the
7 special education local plan area may not receive an adjusted
8 entitlement for the incidence of disabilities pursuant to this section
9 for the 1997–98 fiscal year.

10 (f) On or before March 1, 2003, the Office of the Legislative
11 Analyst, in conjunction with the Department of Finance and the
12 department, shall submit to the Legislature a new study of the
13 incidence multiplier, with recommendations as to the necessity of
14 continuing to adjust the funding formula contained in this chapter
15 for the purposes of this section to the extent that funding is
16 provided for this purpose. The Office of the Legislative Analyst
17 may contract for this study. It is the intent of the Legislature to
18 provide funding for this study in the Budget Act of 2002.

19 SEC. 3. This act is an urgency statute necessary for the
20 immediate preservation of the public peace, health, or safety
21 within the meaning of Article IV of the Constitution and shall go
22 into immediate effect. The facts constituting the necessity are:

23 ~~In order to maintain the status of existing law governing school~~
24 ~~district attendance, it is necessary that this act take effect~~

25 *In order to ensure that laws regarding pupil attendance,*
26 *including those laws regarding pupils with special needs, are*
27 *enacted at the earliest possible time, it is necessary that this act*
28 *take effect immediately.*

